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## VIA ECF

July 30, 2025  
Hon. Ona T. Wang  
Southern District of New York

*In re OpenAI, Inc., Copyright Infringement Litigation, 25-md-3143 (SHS) (OTW)*  
This Document Relates To: *The New York Times Company v. Microsoft Corporation et al.*,  
1:23-cv-11195

Dear Magistrate Judge Wang:

I write on behalf of Plaintiffs The New York Times Company (“The Times”), Daily News, LP, et al. (the “*Daily News Plaintiffs*”), and the Center for Investigative Reporting (collectively, the “*News Plaintiffs*”) to request an order compelling Microsoft to produce a witness by August 15, 2025 for the 30(b)(6) deposition noticed by News Plaintiffs pursuant to this Court’s June 26, 2025 Order. Dkt. [270](#) at 3.

On June 10, 2025, News Plaintiffs moved for an order compelling Defendants to produce documentation concerning their metric-tracking dashboards. Dkt. [157](#) (the “*Motion*”). These metrics include, for example, clickthrough rates, fallback rates, bounce rates, chat impressions, and paywall violations. This Court heard argument on the Motion on June 25 and ordered that “News Plaintiffs may conduct a 30(b)(6) deposition of Microsoft” on issues concerning Microsoft’s metrics-tracking dashboards. Dkt. [270](#) at 3.

Following this Court’s Order, on July 8, 2025, News Plaintiffs served Microsoft a 30(b)(6) deposition notice covering five topics narrowly tailored to issues concerning Microsoft’s dashboards and metrics collection. *See Ex. A.* Because a deposition on these topics is critical for facilitating efficient discovery into metrics data responsive to News Plaintiffs’ RFPs, News Plaintiffs asked that the deposition take place before July 29, 2025. *See Ex. A* at 2.



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To date, Microsoft has refused to provide dates for the deposition. Microsoft says that it will not make a deponent available for this deposition until News Plaintiffs provide an updated 30(b)(6) notice (the original notice was served on Microsoft on March 26, 2025) setting forth all of the Rule 30(b)(6) topics in the case, because “any witness(es) designated in response to [the dashboards and metrics] topics will also be designated in response to any other 30(b)(6) topics.”<sup>1</sup> See Ex. B (email correspondence between A. Frawley and J. Briant). But Microsoft’s proposal to wait to negotiate and designate witnesses on all of the 30(b)(6) topics—and complete its document production on those topics pursuant to the deposition protocol (Dkt. [355](#))—would unnecessarily delay this deposition covering only the discrete dashboard-related topics. Microsoft’s refusal to promptly schedule this deposition is at odds with this Court’s Order and the deposition’s intended purpose to facilitate efficient discovery into the metrics tracked by Microsoft. In view of the fast-approaching deadlines for serving written discovery (August 19, 2025) and substantial completion (September 12, 2025), Microsoft’s refusal to provide a date for this Court-ordered deposition frustrates the ultimate goal of facilitating efficient discovery into the Microsoft dashboards.

News Plaintiffs respectfully request that this Court compel Microsoft to provide a date certain for the deposition and further require that Microsoft provide a date so that the deposition will occur on or before August 15, 2025.

Respectfully,

*/s/ Steven Lieberman*  
Steven Lieberman  
Rothwell, Figg, Ernst & Manbeck, P.C.

cc: All Counsel of Record (via ECF)

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<sup>1</sup> The parties previously agreed that News Plaintiffs would provide updates, if any, to the already served 30(b)(6) notices by July 31, 2025.